



0000156032

BEFORE THE ARIZONA CORPORATION C

COMMISSIONERS

BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

ORIGINAL

RECEIVED
AZ CORP COMMISSION
DOCKET CONTROL

2014 SEP 22 PM 3 19

IN THE MATTER OF THE APPLICATION OF
ARIZONA-AMERICAN WATER COMPANY, AN
ARIZONA CORPORATION, FOR A
DETERMINATION OF THE CURRENT FAIR
VALUE OF ITS UTILITY PLANT AND
PROPERTY AND FOR INCREASES IN ITS
RATES AND CHARGES BASED THEREON FOR
UTILITY SERVICE BY ITS ANTHEM WATER
DISTRICT AND ITS SUN CITY WATER
DISTRICT, AND POSSIBLE RATE
CONSOLIDATION FOR ALL OF ARIZONA-
AMERICAN WATER COMPANY'S DISTRICTS.

DOCKET NO. W-01303A-09-0343

Arizona Corporation Commission
DOCKETED

SEP 22 2014

DOCKETED BY 

IN THE MATTER OF THE APPLICATION OF
ARIZONA-AMERICAN WATER COMPANY, AN
ARIZONA CORPORATION, FOR A
DETERMINATION OF THE CURRENT FAIR
VALUE OF ITS UTILITY PLANT AND
PROPERTY AND FOR INCREASES IN ITS
RATES AND CHARGES BASED THEREON FOR
UTILITY SERVICE BY ITS ANTHEM/AGUA
FRIA WASTEWATER DISTRICT, ITS SUN CITY
WASTEWATER DISTRICT AND ITS SUN CITY
WEST WASTEWATER DISTRICT, AND
POSSIBLE RATE CONSOLIDATION FOR ALL
OF ARIZONA-AMERICAN WATER
COMPANY'S DISTRICTS.

DOCKET NO. SW-01303A-09-0343

PROCEDURAL ORDER**BY THE COMMISSION:**

On July 30, 2014, the Arizona Corporation Commission ("Commission") issued Decision No. 74588 in the above-captioned dockets stating that it had received a significant number of customer complaints and petitions concerning EPCOR Water Arizona, Inc. ("EPCOR") Agua Fria District's rates and charges for water and wastewater service.

On August 7, 2014, a Procedural Order was issued scheduling a procedural conference for August 13, 2014, to discuss the matters set forth in Decision No. 74588.

1 As directed by the Commission, on August 8, 2014, EPCOR filed its Response to Decision
2 No. 74588.

3 On August 12, 2014, Anthem Community Council ("Anthem") filed Preliminary Comments
4 on EPCOR Water Company's Response to Commission Decisions. Anthem also filed a Motion to
5 Stay Proceedings.

6 On August 13, 2014, EPCOR filed a copy of an email sent to the Commission with an
7 electronic copy of its August 8, 2014 Response.

8 On August 13, 2014, the procedural conference was held as scheduled. At the procedural
9 conference, the parties discussed a number of procedural issues including filing dates for testimony
10 and possible hearing dates. The parties agreed that only the 09-0343 Docket should be used for
11 processing the issues raised by Decision Nos. 74588 and 74589 because the Commission was
12 addressing only wastewater rate issues in those Decisions, while the 10-0448 Docket involved only
13 water systems. At the procedural conference, EPCOR was directed to work with Staff to develop a
14 mutually agreeable customer notice to be sent to all wastewater customers.

15 On August 15, 2014, EPCOR filed a Notice of Filing Revised Form of Notice and Response
16 to Procedural Schedule. In its filing, EPCOR attached a revised customer notice which it stated was
17 agreed to between the Company and Staff. EPCOR also set forth a modified procedural schedule
18 which it requested be adopted.

19 On August 18, 2014, a Procedural Order was issued scheduling a hearing to commence on
20 November 12, 2014, adopting various procedural deadlines, and directing the Company to mail and
21 publish notice of the proceeding.

22 On August 19, 2014, a Procedural Order was issued correcting the customer notice set forth in
23 the August 18, 2014 Procedural Order.

24 On August 19, 2014, Verrado Community Association, Inc. filed a Response to Anthem
25 Community Council Inc.'s Motion to Stay Proceedings.

26 On August 19, 2014, a Motion to Withdraw as Co-Counsel for Corte Bella Country Club
27 Association was filed by Jason D. Gellman.
28

1 On August 19, 2014, intervenors W.R. Hansen and Larry Woods filed a request to have Mr.
2 Hansen identified as "President, Property Owners & Residents Assoc." ("PORA"), and to have that
3 designation removed from Mr. Woods.¹

4 On August 20, 2014, Staff filed a Notice of Filing request to place the matter on the
5 Commission's September Open Meeting.

6 On August 20, 2014, Diane Smith, Douglas Edwards, and Regina Shanney-Saborsky filed
7 Motions to Intervene.

8 On August 25, 2014, Frances A. Noe filed an Application to Intervene.

9 On August 26, 2014, EPCOR filed a Response to Anthem Community Council's Motion to
10 Stay Proceedings.

11 On August 27, 2014, Robert J. McKenzie Jr. filed an Application to Intervene.

12 On August 28, 2014, Anthem filed a Request for Reconsideration of Commission's Denial of
13 Motion for Stay of Proceedings.

14 On September 2, 2014, Verrado filed a Response to Anthem Community Council's Request
15 for Reconsideration of Commission's Denial of Motion for Stay of Proceedings.

16 On September 3, 2014, the Residential Utility Consumer Office ("RUCO") filed a Response
17 to Anthem Community Council's Request for Reconsideration of Commission's Denial of Motion for
18 Stay of Proceedings.

19 On September 4, 2014, Anthem filed a Reply to EPCOR's Response to Anthem's Motion to
20 Stay Proceedings.

21 On September 5, 2014, Karen D. Proctor filed an Application to Intervene.

22 On September 8, 2014, EPCOR filed the Direct Testimony of Sheryl Hubbard and Shawn
23 Bradford.

24 On September 9, 2014, Albert E. Gervenack filed a Motion to Intervene.

26 ¹ In the event PORA wishes for Mr. Hansen or another qualified lay representative to represent it in lieu of representation
27 by counsel in this matter, PORA must docket specific authorization, such as a board resolution, for a lay person meeting
28 the requirements of Arizona Supreme Court Rule 31(d)(28) to represent it in this matter. Without such authorization, the
Commission cannot, pursuant to Arizona Supreme Court Rule 31(d)(28), allow Mr. Hansen or any other non-attorney to
appear and represent SCHOA in this proceeding.

1 On September 9, 2014, Douglas Edwards, Diane Smith, and Regina Shanney-Saborsky filed
2 Amended Applications to Intervene.²

3 On September 11, 2014, a Motion to Intervene was filed by Greg Eisert as the "Chairman of
4 the Government Affairs Committee of the Sun City Home Owners Association."³

5 **Request for Reconsideration**

6 Anthem's Request for Reconsideration of of the Denial of Motion to Stay of Proceedings is
7 denied. Anthem raised the same, or similar, arguments in its original Motion to Stay Proceedings, as
8 well as in its counsel's oral comments at the July 22, 2014, Open Meeting. After considering
9 Anthem's arguments at the Open Meeting, the Commission voted to approve the Order that was
10 docketed on July 30, 2014, as Decision No. 74588. In that Decision, the Commission indicated clearly
11 that it wished to obtain additional information, on an expedited basis, related to full consolidation of
12 EPCOR's wastewater districts, re-consolidation of the Anthem and Agua Fria wastewater districts,
13 and further deconsolidation of the Company's wastewater districts. (Decision No. 74588, at 8-10.)
14 The hearing dates and procedural schedule established previously in this proceeding are intended to
15 enable the Commission to determine what modifications, if any, are appropriate for EPCOR's
16 wastewater districts, while affording interested parties an opportunity to present evidence and
17 recommendations on the issues outlined in Decision No. 74588.

18 IT IS THEREFORE ORDERED that **Anthem's Request for Reconsideration of the Denial**
19 **of Motion to Stay of Proceedings is denied.**

20
21
22 ² Ms. Shanney-Saborsky, Ms. Smith, and Mr. Edwards state that they are members of the Government Affairs Committee
23 of the Corte Bella Country Club Association ("CBCCA"). It is not clear from their intervention requests whether they are
24 seeking intervention as individual residents or if they are seeking to represent CBCCA in this proceeding. In the event
25 CBCCA wishes for one of these individuals or another qualified lay representative to represent it in lieu of representation
by counsel in this matter, CBCCA must docket specific authorization, such as a board resolution, for a lay person meeting
the requirements of Arizona Supreme Court Rule 31(d)(28) to represent it in this matter. Without such authorization, the
Commission cannot, pursuant to Arizona Supreme Court Rule 31(d)(28), allow the individuals, or any other non-attorney,
to appear and represent CBCCA in this proceeding.

26 ³ In the event the Sun City Home Owners Association ("SCHOA") wishes for Mr. Eisert or another qualified lay
27 representative to represent it in lieu of representation by counsel in this matter, SCHOA must docket specific
28 authorization, such as a board resolution, for a lay person meeting the requirements of Arizona Supreme Court Rule
31(d)(28) to represent it in this matter. Without such authorization, the Commission cannot, pursuant to Arizona Supreme
Court Rule 31(d)(28), allow Mr. Eisert or any other non-attorney to appear and represent SCHOA in this proceeding.

1 IT IS FURTHER ORDERED that Jason Gellman is authorized to withdraw as counsel for
2 Corte Bella Country Club.

3 IT IS FURTHER ORDERED that intervention is hereby granted to Frances A. Noe,
4 Robert J. McKenzie Jr., Karen D. Proctor, and Albert E. Gervenack.

5 IT IS FURTHER ORDERED that in the event PORA wishes for Mr. Hansen or another
6 qualified lay representative to represent it in lieu of representation by counsel in this matter,
7 the intervention request will be considered once one of the following is filed in this docket: (1)
8 specific authorization, such as a board resolution, for Mr. Hansen or another specifically
9 named lay person meeting the requirements of Arizona Supreme Court Rule 31(d)(28) to
10 represent PORA in this matter; or (2) an intervention request filed by counsel representing
11 PORA in this matter.

12 IT IS FURTHER ORDERED that in the event CBCCA wishes for Mr. Edwards, Ms.
13 Smith, Ms. Shanney-Saborsky, or another qualified lay representative, to represent it in lieu of
14 representation by counsel in this matter, the intervention request will be considered once one of
15 the following is filed in this docket: (1) specific authorization, such as a board resolution, for
16 one of those individuals or another specifically named lay person meeting the requirements of
17 Arizona Supreme Court Rule 31(d)(28) to represent CBCCA in this matter; or (2) an
18 intervention request filed by counsel representing CBCCA in this matter.

19 IT IS FURTHER ORDERED that in the event SCHOA wishes for Mr. Eisert or another
20 qualified lay representative to represent it in lieu of representation by counsel in this matter,
21 the intervention request will be considered once one of the following is filed in this docket: (1)
22 specific authorization, such as a board resolution, for Mr. Eisert or another specifically named
23 lay person meeting the requirements of Arizona Supreme Court Rule 31(d)(28) to represent
24 SCHOA in this matter; or (2) an intervention request filed by counsel representing SCHOA in
25 this matter.

26 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
27 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission
28 *pro hac vice*.

1 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
2 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
3 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances
4 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is
5 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the
6 Administrative Law Judge or the Commission.

7 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
8 Communications) continues to apply to this proceeding and shall remain in effect until the
9 Commission's Decision in this matter is final and non-appealable.

10 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
11 pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

12 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
13 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
14 hearing.

15 DATED this 22nd day of September, 2014.

16
17 

18 DWIGHT D. NODES
19 ASSISTANT CHIEF ADMINISTRATIVE
20 LAW JUDGE

21 Copies of the foregoing mailed/delivered
22 this 22nd day of September, 2014 to:

23 Mr. Thomas H. Campbell
24 Mr. Michael T. Hallam
25 LEWIS AND ROCA LLP
26 201 E. Washington, #1200
27 Phoenix, Arizona 85004

28 Ms. Judith M. Dworkin
Ms. Roxanne S. Gallagher
SACKS TIERNEY PA
4250 North Drinkwater Blvd., Floor 4
Scottsdale, Arizona 85251-3693

Mr. Lawrence V. Robertson, Jr.
Post Office Box 1448
Tubac, Arizona 85646- 1448

Mr. Daniel Pozefsky
Chief Counsel
RUCO
1110 West Washington Street, Suite 220
Phoenix, Arizona 85007

1 Mr. Larry Woods
2 15141 W. Horseman Lane
3 Sun City West, Arizona 85375

4 W. R. Hansen, President
5 Property Owners and Residents Assn.
6 13815 East Camino Del Sol
7 Sun City West, Arizona 85375

8 Mr. Greg Patterson
9 916 West Adams Street, Suite 3
10 Phoenix, Arizona 85007

11 Mr. Robert Metli
12 MUNGER CHADWICK P.L.C.
13 2398 E. Camelback Road, Suite 240
14 Phoenix, AZ 85016

15 Mr. Philip H. Cook
16 10122 West Signal Butte Circle
17 Sun City, Arizona 85373

18 Mr. Andrew M. Miller
19 Mr. Tom Attorney
20 TOWN OF PARADISE VALLEY
21 6401 East Lincoln Drive
22 Paradise Valley, Arizona 85253

23 Mr. Jeffrey W. Crockett
24 BROWNSTEIN HYATT FARBER
25 SCHRECK, LLP
26 One East Washington Street, Suite 2400
27 Phoenix, AZ 85004
28 Attorneys for Russell Ranch Homeowners
Association, Inc.

Mr. Marshall Magruder
P.O. Box 1267
Tubac, Arizona 85646-1267

Mr. Norman-D. James
FENNEMORE CRAIG, P.C.
2394 E. Camelback, Suite 2600
Phoenix, Arizona 85016

Ms. Joan S. Burke
LAW OFFICE OF JOAN S. BURKE
1650 North First Avenue
Phoenix, Arizona 85003

Mr. Craig A. Marks
CRAIG A. MARKS, PLC
10645 North Tatum Boulevard, Suite 200-676
Phoenix, Arizona 85028

Scottsdale Citizens for Sustainable Water
7322 East Cactus Wren Road
Scottsdale, Arizona 85250-4526

Ms. Lynn M. Krupnik
EKMARK & EKMARK, LLC
6720 North Scottsdale Road, Suite 261
Scottsdale, Arizona 85253

Peter and Rochanee Corpus
8425 North 181st Drive
Waddell, Arizona 85355

Ms. Michele L. Van Quathem
RYLEY CARLOCK & APPLEWHITE
One North Central Avenue, Suite 1200
Phoenix, Arizona 85004-4417

Mr. George M. Turner
President, Board of Directors
Russell Ranch Homeowners' Assoc., Inc.
Post Office Box 12560
Glendale, Arizona 85318

Mr. Frederick G. Botha
Ms. Mary L. Botha
23024 North Giovota Drive
Sun City West, Arizona 85375

Ms. Tammy Ryan
Mr. Andy Terrey
City of Phoenix
Water Services Department
200 West Washington, Floor 9
Phoenix, Arizona 85003-1611

Ms. Cynthia Campbell
Assistant City Attorney
Office of the City Attorney
200 West Washington, Suite 1300
Phoenix, Arizona 85003-1611

Regina Shanney-Saborsky
c/o Corte Bella Country Club HOA
22155 North Mission Drive
Sun City West, AZ 85375

Mr. Chad R. Kaffer
Mr. Troy Stratman, Esq.
MACK DRUCKER & WATSON, PLC
3200 North Central Avenue, Suite 1200
Phoenix, Arizona 85012

Diane Smith
13234 W. Cabrillo Drive
Sun City West, AZ 85375

Mr. Jason D. Gellman
ROSHKA, DEWULF & PATTEN, PLC
400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004

Frances A. Noe
11756 W. Daley Lane
Sun City, AZ 85373

Mr. Kenneth Hewitt
18729 North Palermo Court
Surprise, Arizona 85387

Robert J. McKenzie Jr.
41633 N. Panther Creek Trail
Anthem, AZ 85086

Ms. Peggy H. Rahkola
The Arizona Traditions HOA
17221 North Citrus
Surprise, Arizona 85374

Karen D. Proctor
11716 W. Villa Chula Court
Sun City, AZ 85375

Mr. Jim Weihman
The Happy Trails Community Association
17200 West Bell Road
Surprise, Arizona 85374

Albert E. Gervenack
14751 W. Buttonwood Drive
Sun City West, AZ 85375

Mr. Nicholas Mascia
The Surprise Farms III Community Assn.
1600 West Broadway Road, Suite 200
Tempe, Arizona 85282

Greg Eisert, Chairman
Government Affairs Committee
Sun City Board of Directors
10401 W. Coggins Drive
Sun City, AZ 85351

Mr. William B. Lipscomb
Kingswood Parke Community Association
14976 West Bottletree Avenue
Surprise, Arizona 85374

Mr. Kevin Chiariello
Greer Ranch South HOA
16074 West Christy
Surprise, Arizona 85379

Douglas Edwards
13517 W. Sola
Sun City West, AZ 85375

Mr. Michael D. Bailey
City Attorney
City of Surprise
16000 North Civic Center Plaza
Surprise, Arizona 85374

Mr. Mike Albertson
6634 North 176th Avenue
Waddell, Arizona 85355

1 Mr. Brian O'Neal
2 21373 West Brittle Bush Lane
3 Buckeye, Arizona 85396

4 Craig and Nancy Plurnmer
5 17174 West Saguaro Lane
6 Surprise, Arizona 85388

7 William and Erin Parr
8 18044 West Georgia Court
9 Litchfield Park, Arizona 85034

10 Ms. Sharon Wolcott
11 20117 North Painted Cove Lane
12 Surprise, Arizona 85387

13 Mr. Owen Dejanovich
14 Clearwater Farms Three HOA
15 P.O. Box 72
16 Waddell, Arizona 85355

17 Mr. Jim Oravetz
18 Legacy Parc South Homeowners Assn.
19 1600 West Broadway Road, Suite 200
20 Tempe, Arizona 85282

21 Mr. Stan Mucha
22 The Sun Village Community Association
23 17300 North Sun Village Pkwy
24 Surprise, Arizona 85374

25 Ms. Jan Garcia
26 Sycamore Estates Parcel 13 Comm. Assn.
27 1600 West Broadway Road, Suite 200
28 Tempe, Arizona 85282

Mr. Garry D. Hays
THE LAW OFFICES OF GARRY D. HAYS
PC
1702 East Highland Avenue, Suite 204
Phoenix, Arizona 85016

Mr. Jared Evenson
Cross River Homeowners Association
1600 West Broadway Road, Suite 200
Tempe, Arizona 85282

Mr. Timothy L. Duffy
Ms. Cindy J. Duffy
19997 North Half Moon Drive
Surprise, Arizona 85374

Mr. Mike Smith
Sierra Montana Homeowners Association
c/o Rossmar & Graham
9362 E. Raintree Drive
Scottsdale, AZ 85260

Ms. Susan Harr
Summerfield at Litchfield Subdivision HOA
13201 North 35 Avenue, Suite B-3
Phoenix, Arizona 85029

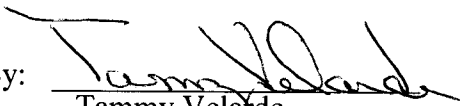
Ms. Dana Rosenbaum
Surprise Farms Community Assn., Phase 1A
P.O. Box 25466
Tempe, Arizona 85285-5466

Mr. Jerome M. Ellison II
Cortessa Community Association
P.O. Box 25466
Tempe, Arizona 85285-5466

Mr. Jay L. Shapiro
Mr. Patrick J. Black
FENNEMORE CRAIG
2394 E. Camelback, Suite 600
Phoenix, Arizona 85016

Mr. Steven M. Olea
Director, Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

1 Ms. Janice M. Alward
2 Chief Counsel, Legal Division
3 ARIZONA CORPORATION COMMISSION
4 1200 West Washington Street
5 Phoenix, Arizona 85007

6 By: 
7 Tammy Velarde
8 Assistant to Dwight D. Nodes

9 (Service lists are combined from Docket Nos.
10 W-01303A-09-0343, SW-01303A-09-0343
11 and W-01303A-10-0448)